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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,635	01/05/2001	Robert E. Dvorak	BLFR 1001-I	4822
22470	7590	02/14/2006	EXAMINER	
HAYNES BEFFEL & WOLFELD LLP			VAN DOREN, BETH	
P O BOX 366			ART UNIT	
HALF MOON BAY, CA 94019			PAPER NUMBER	
			3623	

DATE MAILED: 02/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/755,635

Applicant(s)

DVORAK ET AL.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/24/06 has been entered.

2. The following is a non-final office action in response to the request for continued examination received on 1/24/06. Claim 25 has been amended. Claims 25-46 are now pending in this application.

Response to Arguments

3. Applicant's arguments with respect to claims 25-46 have been considered but are moot in view of the new grounds of rejection, necessitated by amendment.

Claim Objections

4. Claim 26 is objected to because of the following informalities: confusing parenthetical reference. Claim 26 recites "naming a plurality of display fixture types ("named displays")". The rest of the body of claim recites the limitation "the named displays" referring back to this first limitation. Therefore, it is confusing as to which term Applicant wants to receive patentable weight. Examiner points out that parenthetical reference characters generally do not have any effect on the scope of the claims. Therefore, Examiner respectfully requests that applicant cancels the parenthetical reference ("named displays") and changes the limitation "the named

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displays” to “the named display fixtures types” in all other instances in the body of the claim for consistency purposes and to avoid confusion.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 25-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landvater (U.S. 6,609,101) in view of Display Unlimited (www.displayunlimited.com).

As per claim 25, Landvater teaches a computer-implemented method of rolling up projected demand requirements and presentation quantities for a plurality of selling locations, including:

naming a plurality of display types used by a plurality of selling locations (See figures 14 and 15, column 1, lines 40-50, column 2, lines 20-27, column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein profiles of display types are stored in the system);

associating numbers of the named displays present at the selling locations with the selling locations (See figures 14 and 15, column 1, lines 40-50, column 2, lines 20-27, column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein the displays are associated with the location and used when forecasting demand);

associating a good and presentation dates with one or more named displays (See figures 14 and 15, column 1, lines 40-50, column 2, lines 20-27, column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein the good has a time of display);

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associating respective time elements, corresponding to times for an action to lead to availability of the good at the selling locations, with the good at the selling locations (See figures 14 and 15, column 9, lines 15-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein the forecast is time-phased);

looking forward from a date related to the action and rolling up projected demand requirements for one or more predetermined selling periods, which commence at one or more dates related to the respective time elements, for the good at the selling locations, while taking into account association of good with the named displays in the respective selling locations (See figures 14 and 15, column 9, lines 15-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25).

However, while Landvater discloses a number of shelf configurations, shelves versus floor displays, and storing information concerning the shelves and displays in the system, Landvater does not expressly disclose specific display fixture types and numbers of the named display fixture types present at locations.

Display Unlimited discloses different display fixture types and using these fixture types to design layouts of stores in retail environments (See pages 2-3, page 4, section 1, and page 5, section 1, which discloses fixture types and layouts of stores with multiple elements).

Landvater discloses alternative treatments of presentation demand (i.e. different shelf configurations) as well as different types of display (shelves and floor models). Landvater stores information concerning these presentations and displays in the system. Examiner points out that different fixtures types and the scheduling of different fixture types for store resets and remodels are well-known in the retail industry. Therefore, it would have been obvious to one of ordinary

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skill in the art at the time of the invention to include data representing the fixture types of Display Unlimited in the data already stored by Landvater concerning displays and shelves in order to more accurately calculate the stock replenishments needed to maintain attractive displays by ensuring the capacity of the fixtures is accounted for. See column 14, lines 25-35 and 55-65 of Landvater.

As per claim 26, Landvater discloses wherein a user interface facilitates associating predetermined sets of respective time elements with the good at the plurality of selling locations (See at least column 9, lines 15-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein the forecast is time-phased at a selling location).

As per claim 27, Landvater discloses wherein availability of the good includes delivery of the good from a stocking location (See figure 1, column 6, lines 45-67, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 13, lines 30-45 and 59-67, column 14, lines 25-65, which discloses a stocking location).

As per claim 28, Landvater teaches wherein availability further includes preparing the delivered goods for sale (See column 3, lines 10-30, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 14, lines 25-65, which discloses setting up the display of the delivered good).

As per claim 29, Landvater disclosed wherein the time elements include time required to collect data, review action recommendations, process data, pick goods at a stocking location, and ship the goods to the selling location (See column 3, lines 10-30, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 14, lines 25-65, column 16, lines 35-65).

As per claim 30, Landvater wherein the respective time element further include periodic dates for actions necessary to make the good available at the plurality of selling locations (See at

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least figures 8 and 9, column 4, lines 20-40 and 54-66, column 3-30 and 55-65, column 10, column 11, lines 15-35, wherein time periods for forecasting are set in the system).

As per claim 31, discloses wherein the respective time elements include time of distributing the good from one or more first level stocking locations to a plurality of second level stocking locations (See figure 1, column 3, lines 10-30, column 6, lines 45-67, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25 and 55-67, wherein the good is distributed among level 2 and 3 stocking locations using a time element).

As per claim 32, Landvater wherein the respective time elements include time for distributing the good from one or more first level stocking locations to a plurality of second level stocking locations (See figure 1, column 3, lines 10-30, column 6, lines 45-67, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25 and 55-67, wherein the good is distributed among level 2 and 3 stocking locations using a time element).

As per claim 33, teaches wherein the respective time elements include time for distributing the good from a supplier through one or more stocking locations to a plurality of selling locations (See figure 1, column 3, lines 10-30, column 6, lines 45-67, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25 and 55-67, wherein the good is distributed from a supplier to the selling location using a time element).

As per claim 34, Landvater discloses wherein the respective time elements include time for distributing the good from a supplier through one or more stocking locations to a plurality of selling locations (See figure 1, column 3, lines 10-30, column 6, lines 45-67, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 14, lines 25-65, wherein the good is distributed from a supplier to the selling location using a time element).

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As per claim 35, Landvater discloses wherein the action includes distribution of the good from one or more stocking locations to a plurality of selling locations (See figure 1, column 6, lines 45-67, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25, column 13, lines 30-45 and 59-67, column 14, lines 25-65, wherein the good is distributed from a stocking location to selling locations).

As per claim 36, Landvater discloses wherein the action includes ordering the good from a supplier (See figure 1, column 6, lines 45-67, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 13, lines 30-45 and 59-67, column 14, lines 25-65, wherein the good is ordered from a supplier).

As per claim 37, Landvater teaches wherein the action includes allocating delivery of the good after ordering from a supplier (See figure 1, column 6, lines 45-67, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 13, lines 30-45 and 59-67, column 14, lines 25-65, wherein deliveries of goods from suppliers are allocated).

As per claim 38, Landvater teaches wherein the projected demand is for sale of the good at the selling locations (See column 6, lines 45-67, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 13, lines 30-45 and 59-67, column 14, lines 25-65, wherein projected demand is sale of the good).

As per claim 39, Landvater discloses wherein the projected demand is for a stocking level of the good at the selling locations (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss shipments to maintain specific safety stock levels).

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As per claim 40, Landvater teaches wherein rolling up includes adding the presentation quantities and the projected demand requirements for the good at the selling locations (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities and demand requirements).

As per claim 41, Landvater teaches wherein the presentation quantity used in the roll up is the average presentation quantity for the location during the predetermined selling period (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities).

As per claim 42, Landvater teaches wherein the presentation quantity used in the roll up is the presentation quantity for the selling location on the first day of the predetermined selling period (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities).

As per claim 43, Landvater teaches wherein the presentation quantity used in the roll up is the presentation quantity on the day of the predetermined selling period when the good is received at the selling location (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities).

As per claim 44, Landvater teaches wherein the presentation quantity used in the roll up is the largest presentation quantity associated with the good at the selling location for any day of the predetermined selling period (See column 8, lines 25-45, column 9, lines 1-25 and 55-67,

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column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities at the maximum and minimum acceptable levels).

As per claim 45, Landvater teaches wherein the rolling up includes selecting the larger of the presentation quantities or the projected demand requirements for the good at the selling locations (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 20-50, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities at the maximum and minimum acceptable levels).

As per claim 46, Landvater teaches wherein the presentation quantity used in the roll up is the presentation quantity for the selling location on the last day of the predetermined selling period (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities at the maximum and minimum acceptable levels).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gamage et al. (U.S. 2002/0099597) teaches determining a mix of products for retail stores, the database of the system including a planogram.

Dick et al. (U.S. 2002/0128890) discloses supply chain management in a retail environment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737.

The examiner can normally be reached on M-F, 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lwd

bvd

February 6, 2006

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